

<sup>2</sup> The Board notes that, following the December 4, 2019 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

### **FACTUAL HISTORY**

On October 21, 2019 appellant, then a 54-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 17, 2019 she sustained a dog bite to the lower leg while in the performance of duty. She stopped work on that date. On the reverse side of the claim form, appellant's supervisor certified that the information provided by appellant on the form was true to the best of his knowledge and acknowledged that appellant was injured in the performance of duty. Appellant returned to work full time with restrictions on October 26, 2019 and to full-duty full-time work on October 30, 2019.

In a duty status report (Form CA-17) dated October 17, 2019, William Spencer, III, a certified physician assistant, noted clinical findings of left leg open wound and noted that appellant's injury occurred due to a dog bite on October 17, 2019. He advised that appellant could not resume work and that she was not able to perform the regular duties of her position. In attached instructions for caring for an animal bite dated October 18, 2019, Mr. Spencer advised continued use of antibiotics and to follow up on October 21, 2019 for reevaluation. He also signed a work release/physical assessment letter dated October 18, 2019, which stated that appellant was unable to work.

In a development letter dated October 25, 2019, OWCP advised appellant that additional factual and medical evidence was necessary to establish her claim. It informed her of the medical evidence necessary to establish her claim and afforded her 30 days to respond.

By decision dated December 4, 2019, OWCP accepted that the October 17, 2019 employment incident had occurred, as alleged. It denied the claim, however, as the evidence of record was insufficient to establish a diagnosed medical condition in connection to the accepted employment incident and thus, the requirements had not been met to establish an injury as defined by FECA.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every

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<sup>3</sup> *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.R.*, Docket No. 20-0496 (issued August 13, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>6</sup> The second component is whether the employment incident caused a personal injury.<sup>7</sup>

OWCP's procedures provide that where the condition reported is a minor one, such as a burn, laceration, insect sting or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report and no development of the case need be undertaken, if the injury was witnessed or reported promptly, and no dispute exists as to the occurrence of an injury, and no time was lost from work due to disability.<sup>8</sup> This section of the procedure manual further states that, in cases of serious injury (motor vehicle accidents, stabbings, shootings, etc.) if the agency does not dispute the facts of the case, and there are no questionable circumstances, the case may be accepted for a minor condition, such as laceration, without a medical report, while simultaneously developing the case for other more serious conditions. This is true even if there is lost time due to such a serious injury.<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant has established an open wound due to the accepted dog bite incident.

In the instant case, appellant's supervisor signed appellant's Form CA-1 on October 21, 2019, attesting to appellant's statement that she sustained a dog bite to the lower leg while in the performance of duty on October 17, 2019. On duty status report Form CA-17 Mr. Spencer, a physician assistant, recorded an open leg wound due to an October 17, 2019 dog bite. This evidence supports the existence of an open wound to the left lower leg capable of being identified on visual inspection by a lay person, when considered along with the affirmation provided by appellant's supervisor.

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<sup>5</sup> *B.M.*, Docket No. 19-1341 (issued August 12, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *D.M.*, Docket No. 20-0386 (issued August 10, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011).

<sup>9</sup> *Id.*

Therefore, the Board finds that appellant has established that she sustained an open wound due to the accepted dog bite.<sup>10</sup> Accordingly, the December 4, 2019 decision is reversed to find that the claim is accepted for an open wound and payment of appropriate benefits for this condition.

**CONCLUSION**

The Board finds that appellant has established that she sustained an open wound causally related to the accepted October 17, 2019 dog bite incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 4, 2019 decision of the Office of Workers' Compensation Programs is reversed.

Issued: December 22, 2020  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>10</sup> See also *S.A.*, Docket No. 13-2152 (issued March 20, 2014); *E.S.*, Docket No. 13-2170 (issued February 26, 2014).